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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,836	01/22/2007	Guy Verrue	BER-104-PCT/US	7652

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EXAMINER

THOMAS, ALEXANDER S

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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02/26/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/585,836	Applicant(s) VERRUE ET AL.	
	Examiner Alexander Thomas	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 12-22 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 23 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/8/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 19-22 and 25 will be included with the non-elected species II claims since they are directed to a frame 14 that is shown in Figures 4a and 4b to be a part of a separate locking element and thus are directed to the species II.

Specification

2. The disclosure is objected to because of the following informalities: in the paragraph bridging pages 12 and 13 of the specification there is an inconsistency in that the joint edges 8a and 8b are described as locking the tiles in both the horizontal and vertical direction and Figure 9 shows joint edges 8a and 8b to have joint structures 4, 5 that do not lock the tiles in both vertically and horizontally. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. Claims 23 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrases "angling down type" and "snapping type" render the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "type"), thereby rendering the scope of the claim(s) unascertainable.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1, 2, 5 and 7-9 are rejected under 35 U.S.C. 102(a) as being anticipated by EP 1362947. EP 1362947 discloses a carpet tile comprising a supporting plate 7 (which may be polystyrene) with carpet 8 bonded to the upper surface by adhesive 9 and having first and second complementary (i.e. male and female or tongue and groove) locking elements along opposing joint edges 13, 18; see the Abstract and Figure 2. Concerning claim 9, Figures 4 and 5 of EP 1362947 disclose locking elements that lock the respective joint edges both vertically and horizontally.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 4, 10, 11, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1362947 in view of Tone 4,766,022. EP 1362947 discloses a carpet tile comprising a supporting plate 7 (which may be polystyrene) with carpet 8 bonded to the upper surface by adhesive 9 and having first and second complementary (i.e. male and female or tongue and groove) locking elements along opposing joint edges 13, 18; see the Abstract and Figure 2. Tone discloses a carpet tile that has first and second complementary, and third and fourth complementary locking elements

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along opposing joint edges; see the Figures and column 3, lines 17-24. It would have been obvious to one of ordinary skill in the art to provide all of the edges of the carpet tile in the primary reference with similar complementary locking elements in view of the teachings in the secondary reference to help eliminate the curl-up of the edges of the carpet tiles. Concerning claim 4, having the respective locking elements extend only along a part of the edges would have been obvious to one of ordinary skill in the art since an elimination of an element or its function is a matter of obvious engineering choice. Concerning claims 23 and 24, mixing different shapes of locking elements, such as disclosed in EP 1362947 (angle type) and Tone 4,766,022 (snapping type) on a single tile would have been within the purview of one of ordinary skill in the art since this is a mere combination of known elements.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1362947 in view of Tone 4,766,022 as applied to claims 3, 4, 10, 11, 23 and 24 above, and further in view of Stanesic et al 6,244,802 and Daniel 6,841,216. The secondary references disclose carpet material made from needled felt, tufting or woven material; see column 3, lines 36-59 of Stanesic et al and claims 4 and 5 of Daniel. It would have been obvious to one of ordinary skill in the art to use a needled felt, tufting or woven material as the carpet material in the product of the combined prior art in view of the teachings in the secondary references since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Thomas/
Primary Examiner
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